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Attorney for Plaintiff

**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

MARIE CHELLINO	)	NO. C07-3019 CRB
	)	AMENDED
Plaintiff,	)	COMPLAINT FOR BENEFITS
	)	UNDER AN EMPLOYEE BENEFIT
vs.	)	PLAN
	)	
KAISER FOUNDATION HEALTH PLAN, Inc	)	
a corporation; DOES 1	)	
through 10, inclusive,	)	
	)	
Defendants.	)	

COMES NOW THE PLAINTIFF, Marie Chellino, and for cause of action against all defendants, alleges as follows:

1. This court has subject matter jurisdiction of this dispute without regard to the citizenship of the parties pursuant to 29 USC 1132(a)(1)(B) and (e)(1).

2. Plaintiff is informed and believes, and based upon such information and belief alleges, that Defendant Doe 1 (hereinafter "Plan") is an ERISA plan formed by defendant Kaiser Foundation Health Plan, Inc. (hereinafter "Kaiser") under which the plaintiff is entitled to benefits. The true name of the plan is Kaiser Permanente Welfare Benefit Plan ("Plan"). Kaiser is the Plan's administrator. At all times herein mentioned, plaintiff was entitled to long term disability benefits, health care benefits, life insurance benefits and other benefits under the plan. Said benefits were to be given to the plaintiff should she become totally disabled.

1           3. Defendant Kaiser may be found in San Francisco, California.

2           4. Plaintiff is and was at all times herein mentioned, a resident of the  
3 County of Contra Costa, State of California.

4           5. Plaintiff is unaware of the true names and capacities of defendants named  
5 herein as DOES 2 through 10 and has therefore named such defendants by such  
6 fictitious names. Plaintiff will ask leave of court to amend the complaint to state  
7 the true names and capacities of the DOE defendants when the same are  
8 ascertained.

9           6. Plaintiff is informed and believes, and based upon such information and  
10 belief alleges, that each of the defendants was acting as the agent and employee  
11 of each of the remaining defendants with regard to all actions described herein and  
12 all benefits due plaintiff and all damage caused to plaintiff.

13           7. Plaintiff was employed by Kaiser until she became disabled on or about  
14 June 26, 1996. As an employee of Kaiser, she was eligible for the protection of  
15 the Plan. When she became disabled, she became eligible for the long term  
16 disability benefits of the Plan and to other benefits. Defendants have arbitrarily  
17 and in bad faith refused to make payments to plaintiff as required by the Plan.

18           8. On August 31, 2006, the plaintiff was notified of the decision of the  
19 defendants to terminate benefits. Plaintiff timely appealed the termination of  
20 benefits. Said appeal was formally decided by the defendants adversely to the  
21 plaintiff and communicated to her on February 27, 2007. Plaintiff is left with no  
22 choice but to file this law suit at the present time.

23           9. Plaintiff has been denied the benefits which are due her under the Plan  
24 and has suffered and is continuing to suffer economic loss as a result thereof from  
25 August 16, 2006. Plaintiff is entitled to an award of interest on all money that  
26 should have been paid to her.

27           10. Plaintiff has been required to hire attorneys to represent her in this  
28 matter and to recover benefits due her under the Plan. Plaintiff has and will incur

1 attorney fees. The exact amount is unknown to plaintiff and she seeks leave to  
 2 amend this complaint when the same has been ascertained or at the time of trial  
 3 according to proof.

4 11. A controversy now exists between the parties as to whether Plaintiff  
 5 is disabled under the terms of the Plan. Plaintiff seeks a declaration by this Court  
 6 that she meets the Plan definition of disability and is entitled to continued LTD  
 7 benefits from defendants. Plaintiff further seeks a declaration by this Court that,  
 8 if in fact she is found to have been and/or continues to remain disabled under the  
 9 terms of the controlling Plan documents, that all benefits provided to Plan  
 10 participants while they are disabled under this Plan and any other applicable  
 11 welfare or pension benefit plans covering plaintiff, be reinstated retroactive to the  
 12 date her LTD benefits were terminated.

13 WHEREFORE, plaintiff prays judgment against the defendants and each of  
 14 them as follows:

15 1. For all benefits due her in the past and future under the plan plus  
 16 interest;


17 2. For a declaration by this Court that, if in fact she is found to have been  
 18 and/or continues to remain disabled under the terms of the controlling Plan  
 19 documents, that all benefits provided to Plan participants while they are disabled  
 20 under this Plan and any other applicable welfare or pension benefit plans covering  
 21 plaintiff, be reinstated retroactive to the date her LTD benefits were terminated.

22 3. For reasonable attorney fees;

23 4. For costs of suit; and

24 5. For such other and further relief as this court may deem just and proper.

25 DATED: September 24, 2007

26  
 27   
 28 CHARLES J. FLEISHMAN  
 Attorney for plaintiff

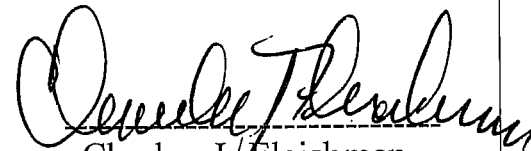
**PROOF OF SERVICE BY MAIL**

I am a resident of Los Angeles County. I am over the age of 18 years and I am a member of the State Bar. My business address is 8383 Wilshire Blvd., Suite 1030, Beverly Hills CA 90211.

On September 24, 2007, I served the within AMENDED COMPLAINT FOR BENEFITS UNDER AN EMPLOYEE BENEFIT PLAN on the parties of interest in said action by placing a true copy thereof enclosed in a sealed envelope with the postage thereon fully prepaid in the United States mail at Beverly Hills, California addressed as follows:

Michael Westheimer  
SEDGWICK, DETERT, MORAN et al.  
One Market Plaza  
Steuart Tower, 8th Floor  
San Francisco, CA 94105

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on September 24, 2007, at Beverly Hills, California.



Charles J. Fleishman